

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

TONEY A. WHITE, III,

Case No. 2:23-cv-01121-APG-DJA

Plaintiff,

ORDER

v.

RONALD OLIVER, et al.,

Defendants.

This action began with a pro se civil rights complaint filed pursuant to 42 U.S.C. § 1983 by a state prisoner. Plaintiff has submitted an application to proceed *in forma pauperis*. (ECF No. 7). Based on the financial information provided, the Court finds that Plaintiff is unable to prepay the full filing fee in this matter.

The Court entered a screening order on February 2, 2024. (ECF No. 19). The screening order imposed a 90-day stay and the Court entered a subsequent order in which the parties were assigned to mediation by a court-appointed mediator. (ECF Nos. 19, 27). On April 8, 2024, the Court granted the Parties' request for a 60-day extension for the mediation conference and ordered that they file a status report by May 28, 2024, to notify the Court whether the case has settled, whether the parties want to pursue inmate early mediation, or whether this case should proceed onto the normal litigation track. (ECF No. 35 at 1). The Office of the Attorney General filed a status report indicating that White did not attend two teleconferences to discuss the case because Plaintiff stated that he did not have advance notice to determine what case the teleconference concerned. (ECF No. 36 at 2; ECF No. 36-1 at 2). In the status report, the Office of the Attorney General states that it would not oppose rescheduling the mediation conference; however, there may be obstacles to settlement. (ECF No. 36 at 2).

In the interest of justice, the Court finds that rescheduling the mediation conference is not necessary and orders that this matter will proceed onto the normal litigation track.

For the foregoing reasons, **IT IS ORDERED** that:

1 1. Plaintiff's application to proceed *in forma pauperis* (ECF No. 7) is
2 **GRANTED**. Plaintiff shall not be required to pay an initial installment of the filing fee. In
3 the event that this action is dismissed, the full filing fee must still be paid pursuant to 28
4 U.S.C. § 1915(b)(2).

5 2. The movant herein is permitted to maintain this action to conclusion without
6 the necessity of prepayment of any additional fees or costs or the giving of security
7 therefor.

8 3. Pursuant to 28 U.S.C. § 1915, the Nevada Department of Corrections will
9 forward payments from the account of **TONEY WHITE, III, 1214172** to the Clerk of the
10 United States District Court, District of Nevada, 20% of the preceding month's deposits
11 (in months that the account exceeds \$10.00) until the full \$350 filing fee has been paid
12 for this action. The Clerk of the Court will send a copy of this order to the Finance Division
13 of the Clerk's Office. The Clerk will send a copy of this order to the attention of **Chief of**
14 **Inmate Services for the Nevada Department of Corrections** at
15 formapauperis@doc.nv.gov.

16 4. The Clerk of the Court shall electronically **SERVE** a copy of this order and
17 a copy of Plaintiff's second amended complaint (ECF No. 18) on the Office of the Attorney
18 General of the State of Nevada by adding the Attorney General of the State of Nevada to
19 the docket sheet. This does not indicate acceptance of service.

20 5. Service must be perfected within ninety (90) days from the date of this order
21 pursuant to Fed. R. Civ. P. 4(m).

22 6. Subject to the findings of the screening order (ECF No. 19), within twenty-
23 one (21) days of the date of entry of this order, the Attorney General's Office shall file a
24 notice advising the Court and Plaintiff of: (a) the names of the defendants for whom it
25 accepts service; (b) the names of the defendants for whom it does not accept service,
26 and (c) the names of the defendants for whom it is filing the last-known-address
27 information under seal. As to any of the named defendants for whom the Attorney
28 General's Office cannot accept service, the Office shall file, under seal, but shall not serve

1 the inmate Plaintiff the last known address(es) of those defendant(s) for whom it has such
2 information. If the last known address of the defendant(s) is a post office box, the Attorney
3 General's Office shall attempt to obtain and provide the last known physical address(es).

4 7. If service cannot be accepted for any of the named defendant(s), Plaintiff
5 shall file a motion identifying the unserved defendant(s), requesting issuance of a
6 summons, and specifying a full name and address for the defendant(s). For the
7 defendant(s) as to which the Attorney General has not provided last-known-address
8 information, Plaintiff shall provide the full name and address for the defendant(s).

9 8. If the Attorney General accepts service of process for any named
10 defendant(s), such defendant(s) shall file and serve an answer or other response to the
11 second amended complaint (ECF No. 19) within sixty (60) days from the date of this order.

12 9. Plaintiff shall serve upon defendant(s) or, if an appearance has been
13 entered by counsel, upon their attorney(s), a copy of every pleading, motion or other
14 document submitted for consideration by the Court. If Plaintiff electronically files a
15 document with the Court's electronic-filing system, no certificate of service is required.
16 Fed. R. Civ. P. 5(d)(1)(B); Nev. Loc. R. IC 4-1(b); Nev. Loc. R. 5-1. However, if Plaintiff
17 mails the document to the Court, Plaintiff shall include with the original document
18 submitted for filing a certificate stating the date that a true and correct copy of the
19 document was mailed to the defendants or counsel for the defendants. If counsel has
20 entered a notice of appearance, Plaintiff shall direct service to the individual attorney
21 named in the notice of appearance, at the physical or electronic address stated therein.
22 The Court may disregard any document received by a district judge or magistrate judge
23 which has not been filed with the Clerk, and any document received by a district judge,
24 magistrate judge, or the Clerk which fails to include a certificate showing proper service
25 when required.

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DATED THIS 30th day of May 2024.

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